

Readopt with amendments Env-A 618.01 and Env-A 618.02, eff. 9-01-12 (doc. #10175), to read as follows:

Env-A 618.01 Purpose. The purpose of this part is to implement the nonattainment new source review (NSR) program as set forth in 171 through 193 of the Clean Air Act (Act) and the July 1, ~~2014~~ **2016** edition of 40 CFR §51.165.

Env-A 618.02 Applicability.

(a) This part shall apply to each new major stationary source or major modification that is major for the following:

- (1) The pollutant for which the area in which the source is or would be located is designated nonattainment under 40 CFR §81.330; or
- (2) NO_x or VOC if the source is or would be located in the Northeast Ozone Transport Region (OTR), as defined in Env-A 618.03(b)(3).

(b) Classification of a project relative to whether or not it is a major modification and therefore subject to this part pursuant to (a) above, shall be performed as described in 40 CFR §51.165(a)(2)(ii)(A) through (F) and by taking the sum of the emissions increase from each emissions unit affected by the project.

(c) In accordance with 40 CFR 51.165(a)(6), except as otherwise provided in 40 CFR 51.165(a)(6)(vi), the specific provisions of 40 CFR 51.165(a)(6)(i) through (v) shall apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a plant-wide applicability limit (PAL) as per Env-A 618.09) in circumstances where there is a reasonable possibility, within the meaning of 40 CFR 51.165(a)(6)(vi), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.

~~(ed)~~ If a source or modification is determined to be a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction of hours of operation, then the provisions of this part shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Readopt with amendments Env-A 618.04, eff. 9-01-12 (doc. #10175), to read as follows:

Env-A 618.04 Owner or Operator Obligations.

(a) Except as provided in (b) below, the owner or operator of any new major stationary source or major modification subject to this part shall:

- (1) Comply with the lowest achievable emission rate (LAER);
- (2) Obtain offsets for the increase in emissions for the project in accordance with Env-A 618.07; and
- (3) Obtain a nonattainment NSR permit ~~prior to commencement of~~ ***before beginning actual*** construction of the project.

(b) Approval of an application to comply with NSR, as specified in Env-A 618.06, or establish a PAL, as specified in Env-A 618.09, shall not relieve the owner or operator of responsibility to otherwise comply with these rules or local, state, or federal law.

(~~bc~~) The owner or operator of an existing major source with a plantwide applicability limit (PAL) shall comply with the provisions of its PAL.

(d) The owner or operator of a source shall make the information specified in 40 CFR 51.165(a)(6) available for review upon a request for inspection by the department or the general public as specified in 40 CFR 70.4(b)(3)(viii).

Readopt with amendments Env-A 619.03, eff. 9-01-12 (doc. #10175), to read as follows:

Env-A 619.03 PSD Program Requirements.

(a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40 CFR §52.21(a)(2), (b) through (e), (h) through (k)(1), (l) through (p), (r), (v), (w), (aa), and (bb), ***and 40 CFR 51.165(b)***, July 1, ~~2011~~ **2016** edition, ~~as amended by 76 FR 43490 on July 20, 2011~~ shall apply for the purpose of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of this part, the word “department” shall replace the word “administrator” in the paragraphs of 40 CFR §52.21 referenced in (a), above, except in the following paragraphs:

- (1) Paragraph (b)(17);
- (2) Paragraph (b)(37)(i);
- (3) Paragraph (b)(43);
- (4) Paragraph (b)(48)(ii)(c);
- (5) Paragraph (b)(50)(i);
- (6) Paragraph (b)(51);
- (7) Paragraph (l)(2); and
- (8) Paragraph (v).

(c) For the purpose of this part, the definitions contained in 40 CFR §52.21(b), ~~as amended by 76 FR 43490 on July 20, 2011~~, shall apply with the following revisions:

- (1) For the purposes of calculating baseline actual emissions pursuant to 40 CFR §52.21(b)(48):
 - a. The same consecutive 24-month period shall be used for all pollutants;
 - b. The 24-month period shall be selected from the 5-year period immediately preceding the date the owner or operator begins actual construction of the project; and
 - c. The department shall allow the use of a different time period up to 10 years immediately preceding the date the owner or operator begins actual construction of the project or allow use of a different consecutive 24-month period for different pollutants upon demonstration by the applicant that it is more representative of normal source operations; .
- ~~(2) The definition of “potential to emit” in 40 CFR §52.21(b)(4) shall include the phrase “or enforceable as a practical matter” at the end of the second sentence; and~~
- ~~(3) The definition of “allowable emissions” in 40 CFR §52.21(b)(16) shall not include the word “federally”.~~

Readopt with amendments Env-A 619.07, eff. 9-01-12 (doc. #10175), to read as follows:

Env-A 619.07 Department Review and Public Notice.

(a) A permit application to comply with PSD or to establish a PAL filed with the department pursuant to this part shall be reviewed in accordance with the criteria set forth in Env-A 607.04 and 40 CFR §52.21(j)-(p).

(b) In the event of a deficiency in a permit application to comply with PSD or to establish a PAL for which the department notifies the applicant in writing pursuant to Env-A 607.06(a), the date of filing of the application for purposes of (c), below, shall be the date on which the department receives all required information.

(c) Within one year after the filing of a complete permit application to comply with PSD or to establish a PAL, the department shall make a final determination of whether construction should be approved, approved with conditions, or denied.

(d) A permit application filed in accordance with this part shall be subject to the public notice procedures specified in Env-A 621.04~~03~~.

Readopt with amendments Env-A 621.04, eff. 9-01-12 (doc. #10175), to read as follows:

Env-A 621.04 Applications Subject to Nonattainment Requirements. For permit applications subject to the requirements of Env-A 618, the following public notice procedures shall supersede the provisions specified in Env-A 621.02:

(a) Within 10 days after the completion of a draft temporary permit, or draft decision and findings of fact, the department shall issue a public notice of the receipt of the permit application and the preliminary determination to issue, amend, or deny such permit.

(b) The public notice shall be published once in a newspaper of general daily statewide circulation and once in a newspaper circulated at least once per week in the immediate area of the proposed source.

(c) Public notice of the preliminary determination to issue, amend, or deny a temporary permit shall contain the following information:

- (1) The name and address of the applicant;
- (2) The location of the source;
- (3) A brief description of the stationary source, area source or device sought to be permitted;
- (4) For new sources or devices, the emissions resulting from the installation;
- (5) For modified sources or devices, the significant net emissions increase resulting from the modification, if any;
- (6) For new or modified sources or devices, the quantity and geographical location(s), in terms of street address, if applicable, or longitude and latitude, of the offset source(s) and devices from which the offsets will be obtained;
- (7) The determination of LAER, including the type of equipment, such as a carbon adsorption system, and, if applicable, the prescribed emission limit;
- (8) The location(s) where, and the hours during which, the completed application and other pertinent information may be examined; and

- (9) The date by which, and the address where, written comments or requests for a public hearing shall be filed.
- (d) The deadline for written comments or public hearing requests shall not be sooner than 30 days after the publication of the notice.
- (e) The department shall distribute copies of the public notice to the following parties:
- (1) The applicant;
 - (2) The EPA;
 - (3) Any state or Indian governing body whose lands may be affected by emissions from the source or modification;***
 - ~~(34)~~ The current official(s) of the city or town where the source is or would be located;
 - ~~(45)~~ The regional planning agency, if applicable, where the source is or would be located; and
 - ~~(56)~~ The Federal Land Manager.
- (f) The department shall make available for public inspection, at a location in the immediate area of the proposed source, copies of the following materials:
- (1) All information, to the extent required or permitted by RSA 91-A and RSA 125-C:6, VII, submitted by the applicant;
 - (2) The department's analysis of the effect of the proposed facility on air quality; and
 - (3) The preliminary determination to issue, amend, or deny the permit and all other materials, if any, considered in making such determination.

Appendix A: State/Federal Statutes and Regulations Implemented

Rule Section(s)	Specific State Statute or Federal Statute/Regulation Implemented
Env-A 618.01	RSA 125-C:11, I; 42 U.S.C. §7502(c); 40 CFR §51.165
Env-A 618.02	RSA 125-C:11, IV; 42 U.S.C. §7502(c)(5); 40 CFR §51.165(a)(2)
Env-A 618.04	RSA 125-C:11, IV; 42 U.S.C. §7503(a); 40 CFR §51.165(a)(2)
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV; 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 52.21
Env-A 619.07	RSA 125-C4, I(j); 42 U.S.C. §7475(d); 40 CFR §52.21(g)(1)
Env-A 621.04	RSA 125-C:12, II